

HB 5597 public hearing 3/14/2016

Regarding Proposed bill HB 5597:

I am writing to generally support HB5597, but to also point out a continuing flaw in the law since the passage of PA-3-13.

Using the risk warrant statute to confiscate the firearms after an investigation is already law, and tying it into the TRO statute is a great idea. This will avoid the confusion over the checkboxes on the TRO form regarding firearms confiscation/surrender, and serves to document the fact that investigation showed that a clear and present danger existed at the time of confiscation, not just one party's word about it.

However, the risk warrant statute still has a major issue caused by the introduction of PA 3-13, and that is regarding the handling of legally possessed banned weapons and magazines.

No provision is made for the return of "black rifles" or 'extended capacity' magazines which were subject to the ban imposed by Public Act 3-13 and prior statute. There is still no way to legally transfer these articles back to an exonerated citizen who legally possessed them before confiscation. Also, no timeframe is mandated for the return of any property, nor is there a mandated timeframe for return of a Carry permit if it was required to be surrendered. Return of the permit is subject to the whim of the police, and a review hearing in front of the Firearms Permit Board of Examiners is now running close to 29 months backlogged. This effectively deprives the owner of a permit from the right to exercise it for over 2 years!

There is also no way for a judge to 'force' state police to return confiscated property, as this power is not clearly stated in the law(s).

These situations are in blatant violation of the accused property rights.

No one wants truly ineligible persons to possess weapons, but the public's right to due process and to not be deprived of property MUST remain in place.

The right to retain property except on judicial review and later to have property, ALL property, returned in an expeditious manner should charges and accusations be found to be unwarranted, MUST be protected.

Sincerely,
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